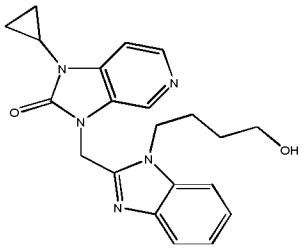
REMARKS

Claims 1-38 were pending in this application. Claims 25, 32, 33 and 36-38 have been previously withdrawn. Claim 23 is herein cancelled and claim 1 is amended to incorporate the limitations of previous claim 23. Claim 24 is also amended herein. Upon entrance of the present amendment, claims 1-22 and 24-38 will remain pending. *No new matter has been added.*

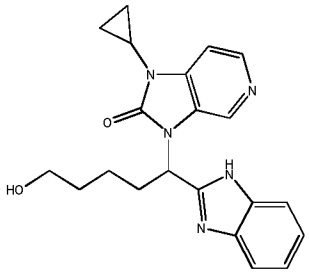
Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-24, 26-31 and 34-45 stand rejected under 35 U.S.C. § 103(a) on the basis that they are unpatentable over WO 2001/95910 (hereinafter "Yu *et al.*") in view of WO 2004/026843 (hereinafter "Carter *et al.*"). Particularly, it is asserted that Yu *et al.* teaches compounds which are effective for treatment of the respiratory Syncytial virus. It is further asserted that Yu *et al.* discloses compounds such as 1-cyclopropyl-1,3-dihydro-3-[[1-(4-hydroxybutyl)-1H-benzimidazol-2-yl]methyl]-2H-imidazo[4,5-c]pyridine-2-one at Example 73 of Yu *et al.* and that the cyclopropyl group in said compound can be replaced by an isopropenyl group. It is further asserted that since Yu *et al.* teaches that the compounds are present in compositions with pharmaceutically acceptable carriers and that the compounds inhibit RSV, it would have been expected that the RSV fusion protein associated with the virus would have been inhibited. Applicant respectfully disagrees.

First, for completeness of the record, Applicant reiterates that the compound disclosed in Example 73 of Yu *et al.*



is in fact 1-cyclopropyl-3-((1-(4-hydroxybutyl)-1H-benzo[d]imidazol-2-yl)methyl)-1H-imidazo[4,5-c]pyridin-2(3H)-one and *is not* 1-cyclopropyl-3-[1-(4-hydroxybutyl)-1H-benzoimidazol-2-ylmethyl]-1,3-dihydro-imidazo[4,5-c]pyridine-2-one.



Nonetheless, for purposes of this discussion, the compound in Example 73 will be referred to as 1-cyclopropyl-3-[1-(4-hydroxybutyl)-1H-benzoimidazol-2-ylmethyl]-1,3-dihydro-imidazo[4,5-c]pyridine-2-one.

Applicant further submits that Yu *et al.* does not disclose the compounds of the present invention that represent component (a) of claim 1. The compound disclosed by Example 73 of Yu *et al.* includes a hydroxybutyl group extending from the benzoimidazol group. Moreover, the compounds of Yu *et al.* and specifically the compound of Example 73 do not allow a hydroxybutyl substitution at the carbon located between the benzoimidazol group and the imidazo-pyridine group. Applicant submits that this is quite contrary to compounds of component (a) and also contrary to the elected specie of component (a) (i.e., ***1-isopropenyl-3-(1-propyl-1H-benzoimidazol-2-ylmethyl)-1,3-dihydro-imidazo[4,5-c]pyridine-2-one***) which do not allow a hydroxybutyl substitution on the benzoimidazol group while allowing a hydroxybutyl substitution to the carbon located between the benzoimidazol group and the imidazo-pyridine group. Accordingly, Applicant respectfully submits that it would not be possible to substitute an isopropenyl moiety for the cyclopropyl moiety on the imidazo-pyridine group and obtain the elected specie of component (a) as suggested in the office action. Applicant therefore submits that Yu *et al.* does not disclose the compounds of component (a) and therefore could not have disclosed that they are suitable for use in treating RSV or inhibiting the RSV fusion protein.

It is further asserted in the office action that Yu *et al.* is deficient because it does not explicitly teach that the composition further comprises a benzodiazepine derivative capable of inhibiting RSV replication. To cure this deficiency, it is asserted in the office action that Carter *et al.* teaches benzodiazepines and the elected specie of component (b) which are effective for inhibiting RSV replication. It is also asserted that Carter *et al.* teaches that the benzodiazepines can be in a composition with acceptable carriers and that the benzodiazepines can be combined

with other anti-viral compounds. It is further asserted that one of ordinary skill in the art, would have been motivated to combine (a) an inhibitor of the RSV fusion protein of formula (I) as taught by Yu *et al.* with (b) a benzodiazepine inhibitor of formula (V) as taught by Carter *et al.* because both components (a) and (b) are taught as being effective for treating and inhibiting RSV. Applicant respectfully disagrees.

As discussed above, Yu *et al.* does not disclose the compounds of component (a) of claim 1 and therefore does not teach that the compounds of component (a) can be used to inhibit the RSV fusion protein. Moreover, Applicant submits that there are numerous anti-viral compounds and neither Yu *et al.* nor Carter *et al.* teaches or suggests the combination of benzodiazepines with the compounds of component (a) or the elected specie of compound (a).

In view of the above amendments and discussion, Applicant submits that neither Yu *et al.* nor Carter *et al.* teaches or suggests 1-isopropenyl-3-(1-propyl-1H-benzoimidazol-2-ylmethyl)-1,3-dihydro-imidazo[4,5-c]pyridine-2-one or that it is suitable as an inhibitor of the RSV fusion protein. Moreover, neither Carter *et al.* nor Yu *et al.* teaches or suggests that benzodiazepines can be combined with the compounds of component (a) of claim 1 or the elected specie of component (a). Accordingly, neither of the cited references, alone or in combination, teaches or suggests each element of the claimed invention and therefore fails to render the claimed invention obvious.

Applicant therefore respectfully requests reconsideration and withdrawal of the outstanding obviousness rejections.

Claim Rejections - Obviousness Type Double Patenting

Claims 1-8, 12, 16-19, 23, 24, 26, 29-31 and 34 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-4, 7-8, 23-24, 29-31 and 34 of copending Application No. 10/593,382.

Applicant notes that the foregoing rejections are provisional in nature and respectfully submit that they will be further addressed when appropriate, i.e., when the non-statutory

obviousness-type double patenting rejection is the only rejection remaining in the later-filed application (MPEP § 804 I(B)).

Conclusion

It is Applicant's understanding that no fees other than the fees indicated in the accompanying fee transmittal is due with the filing of this response. However, should any additional fees be necessary, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-4876, under Order No. 117750-01801.

If a telephone conversation with Applicant's attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call the undersigned attorney at (617) 449-6500.

Dated: September 13, 2010

Respectfully submitted,

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